

Trump's TikTok crackdown may be too much and too late

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Will the Trump administration follow through on threats to bar TikTok and other Chinese smartphone apps from the US market? Don't bet on it.

The administration is concerned that TikTok and other Chinese-owned apps may be handing over massive amounts of information about their users to the Chinese government, providing a new source of sensitive intelligence.

It's a legitimate fear, according to technology analysts, and there is some precedent for preventing Chinese companies from offering apps that collect sensitive data. But an outright ban by the US government will run headlong into massive obstacles, both legal and technological. TikTok will surely fight any attempted crackdown in court. And even if the administration wins, there's no easy way to enforce such a ban against software apps already in use by millions.

The United States last year forced Beijing Kunlun Tech Co. to sell its majority stake in the gay dating app Grindr. Federal regulators feared that data collected by the app would be shared with the Chinese government and used to blackmail gay US citizens working in sensitive government jobs. More recently, India banned TikTok in the aftermath of a border clash with China. The Australian government is also considering a TikTok ban.

On TikTok, users create short, entertaining videos set to music showing their dance moves, beauty makeovers, or the antics of their children. Since its launch four years ago by the Beijing company ByteDance, TikTok has become the first Chinese social media app to develop a huge worldwide following.

The research firm Sensor Tower estimates TikTok has been downloaded 2 billion times worldwide, with 165 million downloads in the United States.

But the Pentagon bans TikTok from government-owned devices used by military personnel. So have other US agencies, including the State Department. Senator Josh Hawley, a Missouri Republican, has drafted legislation that would ban TikTok throughout the US government.

On Friday, it briefly seemed that US technology titan Amazon had joined the anti-TikTok backlash. A company-wide email ordered the company's 800,000 employees to delete the TikTok app from all mobile devices that also have access to Amazon's e-mail network, "due to security risks." But within hours, Amazon said that the email had been sent by mistake.

But can the US government enforce a nationwide TikTok ban?

Stewart Baker, former general counsel at the National Security Agency, said the president has the authority. It's based on an executive order from May 2019 that allows President Trump to block the importation or use of any telecommunications technology that "poses an unacceptable risk to the national security of the United States or the security and safety of United States persons."

"TikTok could fight the decision in court, and since this is a relatively untested provision, they might have success," Baker said, "but I think the odds favor the government in such a fight."

But Kurt Opsahl, general counsel of the Electronic Frontier Foundation, an Internet civil liberties group, argued that existing law doesn't apply to consumer software. "As courts have established, code is speech, so any law trying to ban software would raise First Amendment issues," said Opsahl.

Besides, as Julian Sanchez of the Cato Institute, a libertarian think tank, points out, millions who already have installed TikTok could keep right on using it.

To completely shut down TikTok, the federal government would have to compel the nation's Internet providers to block access to the company's servers, thereby disconnecting all US users from the TikTok network. In effect, the US government would assert the right to censor traffic moving over the Internet. This would be a radical departure from traditional US policy, and vindication for many countries that have long favored Internet censorship.

"You'd have to ironically adopt the types of extreme authoritarian control of communications that China does," said Sanchez. Besides, there's presently no law granting such powers to the federal government.

It looks like TikTok is taking the hint, anyway. The company is moving aggressively to distance itself from Beijing, hiring a US citizen and veteran of the Walt Disney Co. as its new chief executive, and reportedly contemplating a new management board that would be separate from its Chinese parent company. It could even, as the Wall Street Journal reported, set up headquarters outside China.

And after the Chinese government imposed tough new limits on Internet freedom in Hong Kong, TikTok said it will shut down its network in that city.

The company stores US user data in the United States and Singapore, and has long said that it does not provide user data to the Chinese government. But under China's state security law, the government may demand unfettered access to personal data held by Chinese companies. US officials fear that ByteDance would have no choice but to hand over information about US citizens.